MONTANA LEGISLATIVE HISTORY

Chapter 309 19 85

Bill H _____ S 207 Original bill & history ✓ C

H. Committee on Agriculture, Livestock & Irrigation			S. Committee on Agriculture, Livestock & Irrigation		
Hearing Date(s)	Feb 28	✓ C	Hearing Date(s)	Feb 03	✓ C
	Mar 09	✓ C		Feb 08	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Mar 12	✓ C		Feb 08	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

2/06	HEARING		
2/06	SPONSOR FISCAL NOTE RECEIVED		
2/06	SPONSOR FISCAL NOTE PRINTED		
2/13	TABLED IN COMMITTEE		
2/15	TAKEN FROM THE TABLE		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	37	12
2/20	3RD READING PASSED	38	12
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO JUDICIARY		
3/08	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/29	2ND READING CONCURRED	65	34
3/30	3RD READING CONCURRED	74	24
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	29	19
4/06	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE DISSOLVED		
4/07	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	HEARING		
4/11	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	1
4/13	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
	HOUSE		
4/06	CONFERENCE COMMITTEE APPOINTED		
4/08	CONFERENCE COMMITTEE DISSOLVED		
4/08	FREE CONFERENCE COMMITTEE APPOINTED		
4/11	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	89	11
4/12	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	76	22
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR CHAPTER NUMBER 564 EFFECTIVE DATE: 10/01/95		

SB 207 INTRODUCED BY MESAROS, ET AL.

PROVIDE PROTECTION FOR AGRICULTURAL ACTIVITIES FROM GOVERNMENTAL ZONING AND NUISANCE RESTRICTIONS

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
2/03	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED AS AMENDED	49	0
2/11	3RD READING PASSED	46	3
	TRANSMITTED TO HOUSE		
2/11	FIRST READING		
2/15	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
2/28	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/13	2ND READING CONCURRED	92	6
3/14	3RD READING CONCURRED	91	7

	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS CONCURRED	46	0
3/20	3RD READING AMENDMENTS CONCURRED	50	0
3/25	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		
3/27	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 309		
	EFFECTIVE DATE: 10/01/95		

SB 208 INTRODUCED BY MESAROS, ET AL.

GENERALLY REVISE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO LOCAL GOVERNMENT		
1/21	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
1/26	FISCAL NOTE PRINTED		
2/02	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	49	0
2/11	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/11	FIRST READING		
2/15	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	96	2
3/27	3RD READING CONCURRED	95	1
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 388		
	EFFECTIVE DATE: 04/12/95		

SB 209 INTRODUCED BY SWYSGOOD, ET AL.

REFORM THE PUBLIC ASSISTANCE SYSTEM

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/03	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/09	FISCAL NOTE REQUESTED		
2/09	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/09	2ND READING PASSED AS AMENDED	49	0
2/10	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/15	REFERRED TO HUMAN SERVICES & AGING		
3/08	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED AS AMENDED	94	5

SENATE BILL NO. 207

INTRODUCED BY Senators Cole HARP Holden Emerson Hayne Tveit Miller Hertel Stovall Mercer Knox Wagner Bales Stad Crismore Benedict DeBruycker Jenkins Grosfield Keating Rose Towe

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION FOR AGRICULTURAL ACTIVITIES FROM GOVERNMENTAL ZONING AND NUISANCE RESTRICTIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Agricultural activities -- legislative finding and purpose.** (1) The legislature finds that agricultural lands and the ability and right of farmers and ranchers to produce a safe, abundant, and secure food and fiber supply have been the basis of economic growth and development of all sectors of Montana's economy. In order to sustain Montana's valuable farm economy and land bases associated with it, farmers and ranchers must be encouraged and have the right to stay in farming.

(2) It is therefore the intent of the legislature to protect agricultural activities from governmental zoning and nuisance ordinances.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Agricultural activity" means a condition or activity that occurs on a farm in connection with the commercial production of farm products and includes but is not limited to:

(a) produce marketed at roadside stands or farm markets;

(b) noise;

(c) odors;

(d) dust;

(e) fumes;

(f) operation of machinery and irrigation pumps;

(g) movement of water for agricultural activities, including but not limited to use of existing county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities;

(h) ground and aerial application of seed, fertilizers, conditioners, and plant protection products;

(i) employment and use of labor;

SB 207

(j) roadway movement of equipment and livestock;

(k) protection from damage from wildlife;

(l) prevention of trespass;

(m) construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of stream banks and water courses; and

(n) conversion from one agricultural activity to another.

(2) "Farm" means the land, buildings, fresh water ponds, fresh water culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farm product" means those plants and animals useful to humans and includes but is not limited to:

(a) forages and sod crops;

(b) dairy and dairy products;

(c) poultry and poultry products;

(d) livestock, including breeding and grazing of livestock and recreational equine use;

(e) fruits;

(f) vegetables;

(g) flowers;

(h) seeds;

(i) grasses;

(j) trees;

(k) fresh water fish and fish products;

(l) apiaries;

(m) equine and other similar products; or

(n) any other product that incorporates the use of food, feed, fiber, or fur.

NEW SECTION. **Section 3. Local ordinances.** A city, county, taxing district, or other political subdivision of this state may not adopt an ordinance or resolution that prohibits any existing agricultural activities or forces the termination of any existing agricultural activities. Zoning and nuisance ordinances may not apply to agricultural activities that were established outside the corporate limits of a municipality and then incorporated into that municipality by annexation.

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 76, chapter 2, and the provisions of Title 76, chapter 2, apply to [sections 1 through 3].

NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **VICE CHAIRMAN GERRY DEVLIN**, on February 3, 1995, at 1:05 p.m.

ROLL CALL

Members Present:
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Bob Pipinich (D)

Members Excused: Sen. Charles "Chuck" Swysgood, Chairman (R)

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 207, HB 170
Executive Action: SB 166

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON SB 207

Opening Statement by Sponsor:

SENATOR KEN MESAROS, SD 25, Cascade, introduced SB 207. He stated the SB 207 was a bill providing protection for agriculture activities from county nuisance restrictions. The purpose of SB 207 was to address an escalating problem that was in Montana around a lot of urban cities. Because of the economic growth effecting Montana there exists certain problems that may

jeopardize Montana farms and ranches. He said many times with the migration of people into the rural areas which are adjacent to the centers, they sometimes do not fully understand the surrounding agricultural activities in the country. **SEN. MESAROS** said the committee may find many of the ordinary activities associated with farming and ranching, noise, dust, movement of livestock, or anything else, many times lead to political pressures that lead to zoning ordinances that would preclude farming or ranching. In section 2 there were the definitions of agricultural activities. Section 3 had to do with local ordinances. He read the last sentence of that section. He proposed an amendment to the committee that would include on page 2, line 6, insert "timber harvesting", and page 2, line 20, following trees, insert "including timber".

Proponents' Testimony:

Larry Brown, representing the Agricultural Preservation Association, stated they supported SB 207. He stated they were in support of the amendments suggested by **SEN. MESAROS** and possibly thought of adding something to the amendments that are necessary to agricultural burning, describe burning and slash disposal. They believed agricultural burning across the state was something that needed to be taken care of on a periodic basis. He stated it had been an issue in the rural areas of the burning of waste and stubble pits. He expressed his support for SB 207.

John Bloomquist, representing the Montana Stockgrower's Association, stated they were in support of SB 207. He stated the amendment proposed by **Mr. Brown** was needed in certain areas of Montana. He pointed out that neighboring states have similar measures on the book regarding protecting agricultural activities from zoning and ordinance.

Lorna Frank, representing the Montana Farm Bureau, stated they supported SB 207. She suggested on page 1, line 21, new section 1, where it reads, "It is therefore the intent of the legislature to take agricultural activities from", she suggested putting "local governmental zoning and nuisance ordinances" because where it said "from governmental", that could mean most anything and she thought it was the local areas where the problem was occurring.

Al Kington, representing Montana Tree Farm System, stated their concerns were that many of the members were also livestock producers and they thought that the forestry should be included. He said he had not looked at the amendments, but the sponsor of the bill indicated on line 6, where the activities are mentioned, that along with timber harvesting, they believe that vegetation and thinning should be included.

Mike Murphy, representing Montana Water Resources Association, stated they supported SB 207. Also they support the proposed amendments.

Cary Hergreberg, representing Montana Wood Products Association, stated they support the amendment proposed by **SEN. MESAROS**. They support the bill with the amendment.

Bob Stephens, representing the Montana Grain Growers Association, stated they supported SB 207.

Greg Chadwich, representing the Montana Nursery Association, stated they would like to add nurseries into the agricultural activities. He stated they were an agricultural industry in the state and they were in support of SB 207.

Candace Torgerson, representing the Montana Woolgrowers Association, and the Montana Cattlewomen's Association, and Women In Farm Economics, stated they were in support of SB 207.

Janet Ellis, representing the Montana Audubon Legislative Fund, stated they supported SB 207. She inquired about page 2, line 29, the words "apply to". She stated sometimes zoning was done for agriculture and she wanted to make sure that could still be done. They thought the words "exclude" would better clarify that situation.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SENATOR GREG JERGESON asked **SEN. MESAROS** what if someone had some grazing land and a subdivision was built downwind. The person with the grazing land decided to put in a hog factory and then the fact was that other people would not want to buy the rest of the homes in the subdivision, lowering the property value. **SEN. JERGESON** asked if the law would work both ways, or would the person be able to change the use of his land even though it may affect adversely a neighbor's property value. **SEN. MESAROS** referred the question to **John Bloomquist. John Bloomquist** replied that page 2, in section 3, lines 27 and 28, might clarify the question. There might be the argument that the hog factory was not existing.

SENATOR REINY JABS asked **Larry Brown** that they wanted to include burning stubble, but was it not a bad farming practice? **Larry Brown** stated they would like to have it as an activity that was exempt from regulation.

SEN. JABS asked **John Bloomquist** to refer back to the question asked by **SEN. JERGESON.** He stated that maybe the person had a small hog operation, which was not a nuisance and then he expands it to where it becomes a nuisance to the subdivision. How large was existing? **John Bloomquist** replied that already in Montana law, agricultural activities as long as they are conducted in the proper manner, are exempt to public nuisance. He stated maybe the existing language would say the smaller hog operation could be challenged with that.

SENATOR LINDA NELSON asked **Janet Ellis** about the amendment and maybe if the word "exclude" was changed to "prohibit" that would be better. **Janet Ellis** replied that would be fine. They were concerned with the way that it was worded and they would still want zoning for agriculture.

Closing by Sponsor:

SENATOR MESAROS stated as far as the burning was concerned there were already certain regulations on that. He believed in northwestern Montana there was a lot more development coming up and SB 207 was going to be helpful in the future. He urged the committee's support on SB 207.

EXECUTIVE ACTION ON SB 166

Motion: **SEN. BECK MOVED TO TABLE SB 166.**

Vote: The **MOTION CARRIED** with **SENATORS JERGESON AND JABS** voting no.

Discussion on the amendments of SB 207:

SEN. BECK stated **Lorna Frank** wanted to include "it is therefore the intent of the legislature to protect agriculture activities from local government zoning and nuisance ordinances." He stated that it probably should be local and state government. **SENATOR GERRY DEVLIN** asked **SEN. BECK** and **Doug Sternberg** to put together the amendments.

MONTANA SENATE
1995 LEGISLATURE
AGRICULTURE COMMITTEE

ROLL CALL DATE 2-3-95

NAME	PRESENT	ABSENT	EXCUSED
GERRY DEVLIN, VICE CHAIRMAN	X		
TOM BECK	X		
DON HARGROVE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
LINDA NELSON	X		
BOB PIPINICH	X		
CHUCK SWYSGOOD, CHAIRMAN			X

SEN:1995
wp.rollcall.man
CS-09

DATE Feb. 3, 1995

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: SB 207, HB 170, Executive Action SB 166

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
↓PLEASE PRINT↓				
Pam Langley	Montana Agri Business Assn	207	✓	
Lorna Frank	MT. Farm Bureau	SB207	✓	
AL KINGTON	Mt. Tree Farm System	SB 207	✓	
Larry Brown	Ag Pres. Assoc	SB 207	✓	
Carolan Wagner	MT Woolgrowers MT Cattlewomen	SB207	✓	
Greg Chadwick	mta Nursery asso	207	✓	
John Bloomquist	Mt. Stockgrowers	207	✓	
MIKE MURPHY	MT. WATER RES. ASSN	170 207	X X	
Cary Hegreberg	MT Wood Prod. Asso.	207	X	
Maureen Cleary-Schwindt	WIFE	HB 170 207	✓	
Janet Ellis	MT Audubon	207	Amend ✓	
Larry Brown	Ag. Pres Assoc.	HB 107	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on February 8, 1995, at 12:35 p.m.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 275, SB 289, HB 137
Executive Action: SB 207, HB 170, SB 275, SB 289

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

EXECUTIVE ACTION ON SB 207

Discussion:

CHAIRMAN SWYSGOOD referred to page 2, line 6 of SB 207 regarding the conversion from one agricultural activity to another. He was concerned that if you were an alfalfa farmer or had cattle and you wanted to switch to some other activity that might be detrimental to surrounding homes, such as a hog operation or something that might have an impact on the value of your

property, the impact needs to be looked at. In talking to **SENATOR KEN MESAROS** we have come up with some language hopefully to correct this.

Doug Sternberg said on line 6, following the word "another", the phrase would be inserted as follows "provided that the conversion does not adversely impact adjacent property owners". That would still allow conversion to occur and still fall within the protective language of Section 1, but it would say that the conversion is considered to be an agricultural activity as long as it doesn't adversely impact adjacent property owners. If that was the case, then a person who wanted to protest a conversion use could make a point that conversion is outside the scope of the protection afforded by this bill.

SENATOR TOM BECK said one of his constituents wanted to include timber harvesting, thinning, or regeneration.

Doug Sternberg noted there were several people that came to testify suggesting that they would like to be added to the list of agricultural exemptions. In amendment number 2, on line 6, after "another", he included the language that says "provided that the conversion does not adversely affect adjacent property owners". We're adding a new subsection (O) which will cover timber harvesting, thinning and timber regeneration; a new subsection (P) that deals with burning and stubble and slash disposal and (Q) which deals with plant nursery and commercial greenhouse activities. On line 20 following the word "trees", we would inserting the words "including commercial timber" so that both trees and commercial timber would be considered a farm product as it applies to this act. On line 29 we are taking out the words "applied to" and insert the word "prohibit" so that now the sentence would read "zoning and nuisance ordinances may not prohibit agricultural activities that were established outside the corporate limits of the municipality and then incorporated into that municipality by annexation." Those amendments cover the concerns that were raised.

Motion/Vote:

SENATOR GREG JERGESON MOVED the amendments. The **MOTION CARRIED UNANIMOUSLY.**

Motion/Vote:

SEN. JERGESON MOVED SB 207 **AS AMENDED**. The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 170

Discussion:

SENATE STANDING COMMITTEE REPORT

February 8, 1995

MR. PRESIDENT:
We, your committee on Agriculture, Livestock, and Irrigation having had under consideration SB 207 (first reading copy -- white), respectfully report that SB 207 be amended as follows and as so amended do pass.

Signed: _____
Senator Chuck Swysgood, Chair

That such amendments read:

1. Page 2, line 5.
Strike: "and"

2. Page 2, line 6.
Following: "another"
Insert: ", provided that the conversion does not adversely impact adjacent property owners;
(o) timber harvesting, thinning, and timber regeneration;
(p) burning and stubble and slash disposal; and
(q) plant nursery and commercial greenhouse activities"

3. Page 2, line 20.
Following: "trees"
Insert: ", including commercial timber"

4. Page 2, line 29.
Strike: "apply to"
Insert: "prohibit"

-END-

Amd. Coord

Closing by Sponsor:

SEN. BROOKE said this bill would clarify what responsibilities the Department of Health and the Department of Agriculture would have. She said, "We are concerned about harboring our resources. We don't want all departments descending upon a particular site to do the same thing." This would provide more tools to help clean up the site.

SEN. BROOKE stated **REP. KADAS** would carry the bill on the House floor.

HEARING ON SB 207

Opening Statement by Sponsor:

SEN. KEN MESAROS, SD 25, stated some individuals perceived this bill as a right to farm bill. This was an act providing protection from agricultural activities and governmental zoning. He said due to Montana's population growth, a problem exists within the state. The problem occurred as a result of more and more people moving from urban areas to rural areas. Therefore, farms and ranches were being subdivided. This bill would protect existing farming, ranching or timber operations from zoning and nuisance restrictions.

SEN. MESAROS briefly explained Section 1 and 2. Section 1 describes agricultural activities and Section 2 outlines normal activities associated with farming, ranching and timber harvest. He said page 2, line 9, is a major change within the bill. If people move in and there's no major change within an agricultural activity, this bill simply states that the conversion of one activity to another does not adversely impact the property owners. He said amendments added addressed burning of stubble and timber slash. He stated at the present time, this was allowed and this bill would not change it.

On page 3, Section 3, **Alec Hanson, League of Cities and Towns,** had a concern with this part and suggested an amendment. **SEN. MESAROS** stated that an amendment to address **Mr. Hanson's** concerns was drafted. **EXHIBIT 2**

Proponents' Testimony:

Al Kington, Montana Tree Farm System in Helena, handed out testimony for **Bruce Maclay** who could not attend the meeting. **EXHIBIT 3 Mr. Kington** then explained a definition to agricultural activity and offered a change to the bill for the committee's consideration. **EXHIBIT 4 Mr. Kington** stated they supported the amendments by **SEN. MESAROS.**

John Youngberg, Montana Farm Bureau, stated there was a different need for SB 207. He stated examples to the committee on why SB

207 was needed. Some people moved from the east and bought land next to a hog farm. These people built a house and the wind came from the west that fall and the man wanted zoning to get the animals away from the area. He said a farmer from Billings had a beet farm. A subdivision was built next to it. A family built a house in the subdivision and the wind blew that fall after the beets were harvested and the dirt sandblasted the family's house and now the family has filed suit against the beet farmer. He said this year people in Gallatin County were trying to get an air pollution ordinance passed in that part of the country.

He said "People that have moved into the Gallatin Valley area see this smoke coming up from stubble fields being burned. ... Now people have developed a serious allergy to the smoke and we have got to stop that burning." He said there is tremendous growth within the state. He urged the committee to pass SB 207 to support agriculture in Montana.

Bob Stephens, Montana Grain Growers, urged the committee to support the bill.

John Bloomquist, Montana Stockgrowers Association, stated that North Dakota, Idaho, Oregon, and Colorado have similar provisions in their law. He stated that this bill does not allow ag activities to be conducted in violation of environmental laws or other laws. He said he would support the bill with the amendments.

Don Allen, Montana Wood Products Association, stated he agreed with the amendments **SEN. MESAROS** presented to the committee. He urged the committee to pass this bill.

Maureen Cleary-Schwinden, Women Involved In Farm Economics, asked the committee to support SB 207.

Candace Torgeson, Montana Cattlewomen's Association, urged the committee to support the bill.

Mike Murphy, Montana Water Resources Association, stated that this was an exceptional bill and he wanted to go on record as supporting the bill.

Larry Brown, Agricultural Preservation Association, urged the committee to support the bill.

Les Graham, Montana Dairy Association and the Montana Livestock Auctions, stated they strongly supported this bill.

Ronald Buentemeier, F. H. Stoltze Land and Lumber Company sent written testimony in support of this bill. **EXHIBIT 5**

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. JAY STOVALL told **SEN. MESAROS** he didn't understand on page 3, lines 8 and 9, where agricultural activities were annexed. **SEN. MESAROS** said what the bill did was protect existing farming and ranching operations outside of the city limits. The people moving from the urban area to the rural area could not petition a nuisance ordinance against a true farming or ranching operation.

REP. STOVALL asked **SEN. MESAROS** even if the land was annexed if the city couldn't prosecute, even if it was annexed into the city. **SEN. MESAROS** replied there are other parts of the statute that refer to annexation of farming activities and it was his understanding they could not annex farming operations. **REP. STOVALL** asked if a municipality could not annex a farm operation. **SEN. MESAROS** asked **John Bloomquist** to respond. **Mr. Bloomquist** stated there was one section that states if there is agricultural land that is fully surrounded by a municipality they cannot annex without the owner's permission.

REP. DON LARSON asked **SEN. MESAROS** about page 2, line 9. He provided a scenario whereby someone has a cow-calf ranching operation, cow prices decrease dramatically, so he decides he's going to harvest the timber off of it. A neighbor from California has an 80 acres spread and all of a sudden this rancher clear-cuts the land while waiting for the cattle prices to go up. He asked if that would be considered a "takings" for that neighbor and would the bill adversely affect that neighbor's property right? **SEN. MESAROS** stated he would not interpret this as a takings and that it would not directly affect the neighbor's property.

REP. LILA TAYLOR asked **SEN. MESAROS** because of the additional amendments did he need to change the title of the bill to consider forestry.

SEN. MESAROS yielded the question to the council to decide if the title needed to be changed or not.

REP. TREXLER commented on the question by **REP. TAYLOR.** He stated that it would be considered tree farming and not to confuse forestry with tree farming.

Connie Erickson addressed the question by **REP. TAYLOR.** She said the first amendment including forest as an agricultural activity, would not require a change to the title.

REP. TAYLOR asked **SEN. MESAROS** why he wanted to include forestry in the bill. **SEN. MESAROS** stated that not including forestry to begin with was an oversight on his part.

REP. LARSON asked if he could redirect the question to **Don Allen.** **REP. LARSON** asked **Mr. Allen** to give the committee a concrete example of how the bill would apply to a forest operation. **Mr.**

Allen stated the idea they had earlier was to include forestry. He said there were times they had overlapping activities of farming and forestry. They would protect one activity and not the other even though both are on the same land.

REP. LARSON asked **Mr. Allen** about the Flathead area and if the Plum Creek lands were within city limits. **Mr. Allen** stated it was common in the Lake Mary area of Ronan and around Columbia Falls where zoning impacted 20 to 40 acre tracts.

REP. LARSON asked **Mr. Allen** if those lands were in the county or city. **Mr. Allen** replied they were in the county.

CHAIRMAN BARNETT asked **SEN. MESAROS** about page 3, lines 8 and 9. He said if an incorporated city extended and included an agricultural activity, would there be anything that would prevent a person from selling the agricultural activity? Could they sell it and be grandfathered in? **SEN. MESAROS** replied if there was a change in ownership, they would be treated accordingly.

CHAIRMAN BARNETT asked if this could involve the taking of one's rights and if he could not sell his operation. If the city grew up around his farming operation, and he was not able to sell his agricultural operation and chose to sell out, would this jeopardize his right to sell. **SEN. MESAROS** replied he did not see how it would jeopardize his right. **CHAIRMAN BARNETT** stated this legislation wouldn't jeopardize it, but city ordinances could be passed that would jeopardize it. He said this would not give him protection to sell in the future.

John Bloomquist stated they were protecting the activity to change from one ownership to another. But if this land was changed into a subdivision there would be no protection.

REP. LARSON asked **John Bloomquist** if there was anything to prohibit that agricultural owner to sell it for the purposes of a subdivision. **Mr. Bloomquist** stated that it did not.

REP. TREXLER asked **SEN. MESAROS** about the amendment he wanted that would go in page 2, line 18, and said it does not indicate if it had been taxed in a manner that suppresses it. Is that what you were trying to do there. **SEN. MESAROS** replied the amendment would clarify the timber interest.

REP. ROSE asked **John Bloomquist** about the zoning in the Choteau area where they zone in five-acre tracts. He stated five acres was the minimum a person could put a home on because it was within the area of the city water supply. He asked if this would be a takings. **Mr. Bloomquist** replied that zoning of that kind would probably not be affected, because it would be under existing takings law.

Closing by Sponsor:

SEN. MESAROS stated there was major problem in certain areas within the state affecting farming and ranching operations and that was why he had the bill drafted. He urged the committee to pass the bill and asked **REP. ROSE** to carry the bill on the House floor.

EXECUTIVE ACTION ON SB 289

Motion: REP. LARSON MOVED SB 289 BE CONCURRED IN.

Vote: The motion carried unanimously. REP. ROSE gave an oral proxy from REP. ROBERT STORY indicating a yes vote.

EXECUTIVE ACTION ON SB 319

Motion: REP. RYAN MOVED SB 319 BE CONCURRED IN.

Vote: The motion carried unanimously. REP. ROSE gave an oral proxy from REP. ROBERT STORY indicating a yes vote.

Executive action on SB 207 was deferred until a later date.

HOUSE OF REPRESENTATIVES

Agriculture

ROLL CALL DATE 2/28/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Sam Rose Vice Chairman, Majority	✓		
Rep. Don Larson, Vice Chairman, Minority	✓		
Rep. Jon Ellingson	✓		
Rep. Dick Green	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Rick Jore	✓		
Rep. Gay Ann Masolo	✓		
Rep. Judy Rice Murdock	✓		
Rep. Karl Ohs	✓		
Rep. Jay Stovall	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Robert Story	✓		✓
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Ken Wennemar	✓		
Rep. Joe Barnett, Chairman	✓		

EXHIBIT 2
DATE 2/28/95
SB 207

Montana League of Cities and Towns

February 20, 1995

MEMORANDUM

To: Senator Ken Mesaros
From: Alec Hansen
Re: SB-207

As previously indicated, cities do have concerns about the effects of Senate Bill 207 within urban and densely populated areas of our state.

We anticipate problems with aerial spraying, roadway movement of livestock, and conversion of land from one agricultural activity to another within the incorporated boundaries of cities and towns. I understand that the sections dealing with these issues are important to your purpose, but I believe that they could be retained if the bill did not apply to properties located within the boundaries of cities and towns.

There are very few legitimate agricultural operations inside cities, and I am not sure that you intended to exempt horse pastures, open fields, green houses and street vendors from all municipal ordinances.

The simplest way to answer our concerns would be to amend Section 3 to provide that the bill does not apply to municipal ordinances.

Thank you for the opportunity to comment and offer suggestions on SB-207.

SUGGESTED AMENDMENT

Page 2, line 28, following "activities."

Insert: outside the boundaries of an incorporated city or town.

Strike: ~~the remainder of Section 3~~.

EXHIBIT 3
DATE 2/28/95
HB SB207

H. BRUCE MACLAY
17015 OLD HIGHWAY 93
FLORENCE, MONTANA 59833
February 21, 1995

HOUSE AGRICULTURAL COMMITTEE:

I welcome this opportunity to comment on **Senate Bill 207**. I am H. Bruce Maclay, a third generation cattle rancher in the Bitterroot Valley of Western Montana, and I am also a tree farmer of more than 15 years standing. Currently I am Chairman of the Montana Tree Farm System. The Montana Tree Farm System is an organization of non-industrial private forest owners, many of whom are Montana ranchers. This organization has been in existence for over 50 years. The members have an approved plan for their practices and goals.

Senate Bill 207 is a wise move to put Montana agriculture ahead of the curve in dealing with some of the upcoming problems with governmental zoning and nuisance restrictions. I think forestry needs to be included as well as agriculture in this proposal. The Bill attempts to do this under **Section 2, O**, which includes as an "activity" ... "timber harvesting, thinning, and timber regeneration", and under **Section 3, J**, which, under commercial production of farm products includes "trees - including commercial timber".

However, in order to accomplish the intent of those Sections, Section 2 (1) needs to be changed to read "land classified as agricultural and forest land for tax purposes", and wherever "farm products" is stated needs to be changed to "farm and forest products".

Thank you for your consideration of these comments.

H. Bruce Maclay

Proponents at Kingston

EXHIBIT 4
DATE 2/28/95
HB SB 207

AMENDMENT TO SB 207

SEC.2 DEFINITIONS

(1) " Agricultural activity " means a condition or activity that occurs on land classified as agricultural or forest land for taxation purposes and that occurs in connection with the commercial production of farm and forest products and includes but is not limited to:

EXHIBIT 5
DATE 2/28/95
HB SB207

F.H. STOLTZE LAND & LUMBER CO.

Lumber Manufacturers
Box 1429 • COLUMBIA FALLS, MONTANA 59912
PHONE (406) 892-3252 • FAX (406) 892-1612

FACSIMILE TRANSMITTAL

Date: February 21, 1995

To: (Firm Name) House Agriculture Committee (Rm 420)

(Attn): Jailene Racicot Secretary

From: Ronald H. Buentemeier

Message: Today you are considering Senate Bill 207. As a manager of 34,000 plus acres of forest land in Northwestern Montana, much of it in the urban interface area, this bill will help insure that our lands can continue to be managed for forest products. The bill should also include "or Forest" inserted in lines 22 & 23 as I have indicated on the attached sheet.

We must provide Farming and Forestry operations with the tools they need to continue their operations without local conflicts

Sincerely yours

Ronald Buentemeier

Ronald H. Buentemeier
Land Manager

Number of Pages to follow: 9

FAX NO. 406-892-1612

SENATE BILL NO. 207

INTRODUCED BY MESAROS, ROSE, HARP, HOLDEN, EMERSON, COLE, MOHL, HARGROVE, TVEIT, MILLER, HERTEL, STOVALL, MERCER, KNOX, WAGNER, BAER, AKLESTAD, CRISMORE, BENEDICT, DEBRUYCKER, JENKINS, GROSFIELD, KEATING, TOEWS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION FOR AGRICULTURAL ACTIVITIES FROM GOVERNMENTAL ZONING AND NUISANCE RESTRICTIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Agricultural activities -- legislative finding and purpose. (1) The legislature finds that agricultural lands and the ability and right of farmers and ranchers to produce a safe, abundant, and secure food and fiber supply have been the basis of economic growth and development of all sectors of Montana's economy. In order to sustain Montana's valuable farm economy and land bases associated with it, farmers and ranchers must be encouraged and have the right to stay in farming.

(2) It is therefore the intent of the legislature to protect agricultural activities from governmental zoning and nuisance ordinances.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Agricultural activity" means a condition or activity that occurs on ~~a farm~~ LAND CLASSIFIED AS AGRICULTURAL OR FOREST LAND FOR TAXATION PURPOSES AND THAT OCCURS in connection with the commercial production of farm OR FOREST products and includes but is not limited to:

(a) produce marketed at roadside stands or farm markets;

(b) noise;

(c) odors;

(d) dust;

(e) fumes;

(f) operation of machinery and irrigation pumps;

(g) movement of water for agricultural activities, including but not limited to use of existing county

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Agriculture-Livestock COMMITTEE BILL NO. SB 207

DATE 2/28/95 SPONSOR(S) Mesaros

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John Semple	Assoc. of Montana Aerial Applicators	207		✓
Pam Langley	Montana Agri-Business Assoc.	207		✓
Al Kington	Montana Tree Farm System	207		✓
Maureen Cleary-Schwindel	WIFE	207		✓
MICHAEL MURPHY	MT. WATER RES. ASSN	207		✓
Liz Graham	MDA-/MDA			✓
Lorna Frank	MT. Farm Bureau	SB207		✓
Bob Stephens	MT Grain Growers	SB 207		✓
Larry Brown	Ag. Pres. Assoc	207		✓
CANDACE TORGERSON	MT Cattlemen Assn	207		✓
John Bloomquist	MT Stockgrowers	207		✓
Don Allen	MT Wood Products Assn	207		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

REP. RYAN said never once during the last six years, did a consumer tell him to do something about the price of milk. He did not know why everyone was afraid of a referendum. He said he would like to protect the jobbers as well as the producers.

REP. ROSE said if they were going to deregulate, deregulate the whole industry., He said if they lose the one in Great Falls, it is just as close to Idaho Falls to Bozeman it is to Great Falls.

REP. JAY STOVALL said he was in favor of the bill because it would protect the producers. He said they were there to protect the consumers as well.

REP. RICK JORE said he had dairies in his district and they were in support of it. He felt government involvement creating over-regulation was harmful to a free society.

Motion: REP. STORY MOVED SB 364 BE CONCURRED IN.

Vote: A roll call vote was called. **The motion carried 12 - 6 with REPS. ROSE, LARSON, HAYNE, HEAVY RUNNER, RYAN, SCHWINDEN voting no. (An oral proxy vote of yes was given by REP. SCHWINDEN for REP. ELLINGSON.)**

EXECUTIVE ACTION ON SB 207

Motion: REP. STORY MOVED SB 207 BE CONCURRED IN.

Motion: REP. RYAN MOVED THE AMENDMENTS. EXHIBIT 6

Discussion:

REP. RYAN indicated there was an amendment that he wanted to include with this set of amendments. On page 2, line 23 he wanted to included "breeding and feeding."

Connie Erickson stated the amendments **REP. RYAN** moved were the amendments **SEN. MESAROS** offered at the hearing. She said it also included the amendments **REP. RYAN** and **REP. STORY** worked on with the approval of **SEN. MESAROS.**

REP. RYAN said the amendments included "all agricultural activities."

Vote: The motion carried unanimously.

Motion: REP. STORY MOVED SB 207 BE CONCURRED IN AS AMENDED.

Discussion:

REP. STORY said the only objection he heard was from his county commissioners.

REP. SCHWINDEN said he was going to vote for the bill even though the bill would not affect his district. He said by passing the bill they would be imposing an unfunded mandate on local governments. He stated they would be prohibiting the local governments from zoning restrictions and other similar kinds of activities.

REP. RYAN spoke in favor of the bill.

REP. ROSE thought it was a good bill and the amendments made it a better bill.

REP. STOVALL said this bill was important to the Billings area and he felt they needed more bills like SB 207.

REP. TAYLOR told the committee she would support the bill.

Vote: A voice vote was taken. **The motion carried 17-1. An oral vote by REP. SCHWINDEN noted REP. ELLINGSON proxy vote of no.**

EXECUTIVE ACTION ON SB 144

Motion: **REP. OHS MOVED SB 144 BE CONCURRED IN.**

Motion: **REP. MURDOCK MOVED AMENDMENT #1. EXHIBIT 7**

Discussion:

Connie Erickson explained the amendment. She said within the Clark Fork Basin the attorney fees would be paid for just in the that basin. She believed there could be a constitutional question of equal protection. She said they would be providing something to a specific group of people that they're not providing to another group of people. She said if a person went to a hearing to apply for this permit, it would end up in district court, and that person could get his district fees. She said if someone outside of the basin did the exact same thing, they would not get their attorney fees paid. In addition to the amendment, she put in a severability clause into the bill. She said if it was challenged by putting a severability clause it would protect the rest of the bill.

REP. LARSON said he was in favor of the amendment but he did not agree with **Ms. Erickson**. He felt the severability clause was necessary.

REP. STORY said he not have a problem with the amendment. He said if **Ms. Erickson** was right, they should vote no on the amendment and make it statewide language.

REP. STOVALL asked if the severability clause would not take care of the bill, if there was a constitutional problem with the bill.

HOUSE STANDING COMMITTEE REPORT

March 10, 1995

Mr. Speaker: We, the committee on **Agriculture, Livestock, and Irrigation** report that **Senate Bill 207** (third reading copy -- blue) **be concurred in as amended.**

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Rose

And, that such amendments read:

1. Page 1, line 21.
Following: second "activity"
Insert: "that provides an annual gross income of not less than $1,500 or"

2. Page 1, line 22.
Following: "AGRICULTURAL"
Insert: "or forest"
Strike: "AND THAT OCCURS"
Insert: ". The condition or activity must occur"

3. Page 2, line 16.
Following: "THE"
Insert: "growing, raising, or"

4. Page 2, line 18.
Following: "$1,500"
Insert: "or that occurs on land that is classified as agricultural or forest land for taxation purposes"

Committee Vote:

5. Page 2, line 23.
Following: "breeding"
Insert: ", feeding,"

6. Page 3, line 7.
Following: second "activities"
Insert: "outside the boundaries of an incorporated city or town"

-END-